

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 483 (M/B) 2003

Krishan Luthra
s/o Late Sri Amim Chand Luthra,
R/o Balvendere Green Apartment,
Mallital, Nainital Petitioner

Versus

Executive Officer Nagar Palika, Nainital
And one another. Respondents.

Mr. Arvind Vashishtha, Advocate, for the petitioners.
Mr. Sharad Sharma, Advocate for State..

Coram: Hon. S.H. Kapadia, C.J.
 Hon. Rajesh Tandon, J.

Dated: 08.09.2003:

PC:

Rule.

Respondents waived service.

Petitioner was running business in the name of Kwaliti restaurant. The restaurant was being run from 29.4.1981. By orders passed by the earlier Bench of this Court, six structures were ordered to be demolished as they were contributing to water pollution. One of the structures was that of the petitioner. The demolition was stayed by the apex Court vide order dated 02.07.2001. However, that order indicates that the petitioner was free to run any other business besides restaurant. The petitioner now wants to run a garment shop in the structure allotted to the petitioner. It is objected by the Nagar Palika Parishad on the ground that the lease has been terminated and eviction proceedings are to be initiated by the State Government.

Since the present petition is consequence of the order passed in a public interest litigation writ petition, we are of the view that title or eviction dispute cannot lie in this writ petition. In this writ petition, only limited prayer of the petitioner is that they should be permitted to run a garment shop. If the Government or Nagar Palika seeks to raise any title or eviction dispute, they are free to take action in accordance with law. Eviction dispute

does not fall within the ambit of this writ petition. Therefore, we are permitting the petitioner to run garment shop subject to petitioner's obtaining permission from all the relevant authorities including Nagar Palika in accordance with law. This order will not prevent Nagar Palika or State Government from raising any title dispute or dispute pertaining to eviction in accordance with law.

The petition is disposed of.

(Rajesh Tandon, J.)

(S.H.Kapadia, C.J.)

AK: